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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/004,862 | 12/07/2001 | Jacques Chevallet | B-0772-US | 9679 |
| 466 | 7590 | 05/18/2005 | EXAMINER | |
| YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202 | | | NASSER, ROBERT L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3736 | |

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/004,862 | CHEVALLET ET AL. | |
| | Examiner | Art Unit | |
| | Robert L. Nasser | 3736 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 14-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9, 12, and 13 are rejected under 35 U.S.C. 103(a) as being anticipated by Dolocek et al 6280406 in view of Samuelson et al 6255609 . Dolocek et al shows a system for measuring pressure of blood flowing in a pipe, including a flow channel sealed off by a membrane 130, and a pressure transmitting member 114, 240, which attaches to a member on the diaphragm so that the pressure transmission member is in direct contact with the diaphragm. The examiner notes that in figure 4, when the system is assembled, the a servo motor or other driving means moves the sensor into contact with the magnetic plate member 122 extending off the membrane. This causes an initial bias on the diaphragm and enables the diaphragm to be able to sense positive and negative pressures. However, because of the plate 12, the transmitting member 114, is not in direct contact with the diaphragm. Samuelson shows an alternate pressure sensor of the same type, with the diaphragm 14 and the transmitting rod 15 are in direct contact. Therefore, it would have been obvious to modify Dolocek et al to eliminate the plate 12 and have the diaphragm and transmitting member be in direct contact, as it is merely the substitution of one known sensor configuration for another. In addition, the initial biasing happens before the device is in

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use, so there is no pressure bias across the diaphragm. Dolocek has the remaining claim features, including a linear actuator, 400. With respect to claim 5, the examiner takes official notice that a stepper motor is a well-known motor for the purposes described in Dolocek et al.

Claims 10, 11, and 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14 and 18 define over the art in that none of the art teaches pretensioning the diaphragm to work in a linear region of the axial displacement means. Claims 10, 11, and 15-17 define over the art of record in that none of the art analyzes the response of the diaphragm to a varying tensioning force.

Applicant's arguments filed 2/28/2005 have been fully considered but they are not persuasive.

Applicant has asserted that Dolocek does not suggest the calibration operation, specifically calibration by selection of the applied force. The examiner does not understand this argument, as nowhere in the claim does applicant recite selecting the applied force. Further, applicant has defined the calibration as the initial positioning of the sensitive member relative to the face of the closure member. Dolocek has this feature, as before the sensitive member makes contact with the magnetic disk 122, the diaphragm is at rest.

The examiner further notes that the rejection is not an anticipation rejection based on Dolocek, but an obviousness rejection based on Dolocek in view of

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Samuelson. However, the combination also performs calibration in the same manner, moves the sensing member relative to the diaphragm while the diaphragm is at rest, until the 2 come into contact.

Applicant states that the contact takes place by pushing the member 52 towards and against the membrane to apply a pretensioning force and that this is inherent and claimed. It is the examiners position that nothing in the claims recites moving the member towards and against the closure member.

Based on these arguments, applicant concludes that there is no motivation to combine Dolocek and Samuelson. Again, the examiner does not understand this comment. Applicant has not even addressed Samuelson. In addition, the fact that Dolocek works in a different way than applicant's device does not mean that it cannot be modified. In the instant case, it is the examiner's position that the art provides clear motivation for the combination, as the 2 references are alternate devices for performing the same function.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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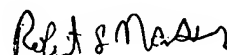
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser
Primary Examiner
Art Unit 3736



ROBERT L. NASSER
PRIMARY EXAMINER